



COURT REPORTERS BOARD OF CALIFORNIA

BEST PRACTICES FOR THE USE OF BACKUP AUDIO MEDIA

Backup Audio Media (BAM) is the generic term for any audio recording, including the audio synchronization tool built into computer-aided translation (CAT) software.

For the purposes of these guidelines, "party" is defined as a named person or entity in a case and/or their attorney.

The duties and responsibilities of the certified shorthand reporter (CSR) regarding preservation of the official record are not changed by the use of BAM.

Stenographic notes are the official record.

- ❖ It is the obligation of the CSR to interrupt the proceedings when the record is in jeopardy due to the speed of the testimony, unintelligible and/or simultaneous speakers, et cetera.
- ❖ It is the duty of the CSR to read back from the stenographic notes, which are the official record, and no playback of the recording in lieu of readback is allowed.
- ❖ CSRs must comply with all applicable local, state and federal rules and/or laws to ensure the integrity of the record, including California Penal Code 632.
- ❖ When a backup recording is made by a CSR at his or her own discretion and not otherwise ordered for preservation by any federal, state or local law and/or rule, it is the personal property of the CSR and there is no public entitlement to these recordings.
- ❖ The BAM file may be provided at the request of an attorney and/or a party to a proceeding at the discretion of the CSR.
- ❖ If the BAM is going to be released, the following best practices should be used.

continued

COURT REPORTERS BOARD OF CALIFORNIA

BEST PRACTICES FOR THE USE OF BACKUP AUDIO MEDIA

Providing BAM at the request of an attorney or party to a proceeding:

1. If the BAM is made available to any court reporting firm or party in a case, it is the responsibility of the CSR to ensure that no confidential or off-the-record discussions are contained in the released recording.
2. If the CSR decides to release the BAM, the CSR and/or reporting firm should release a copy and not the original (unless ordered otherwise by a court.) The original should be maintained for no less than one year.
3. If the CSR and/or reporting firm makes available a copy of the BAM to one party, the same offer must be made at the same time to the other party(ies) to the proceeding.
4. CSRs and/or reporting firms should check all applicable local, state and federal laws, rules and regulations to ensure that creating a backup audio media is in compliance with those laws, rules and regulations, including but not limited to California Penal Code 632, which prohibits eavesdropping on or recording confidential communications.
5. If the CSR and/or reporting firm offers BAM as a value-added service, all parties should be advised prior to the start of the proceeding.
6. If the transcript or any portion thereof is designated confidential or sealed, the BAM file shall be clearly labeled as such.

Approved 3/13/09